

A

COLLECTION

OF

Such of the ORDERS

Heretofore used in

CHANCERY;

With such Alterations and Additions thereunto, as the Right Honorable
Edward Earl of Clarendon, Lord-Chancellor of *England*.

By and with the advice and assistance of the
Honorable Sir *Harbottle Grimston* Baronet,
Master of the ROLLS,

Have thought fit at present to Ordain and Publish,
For

Reforming of several Abuses in the said Court, preventing multiplicity of Suits, Motions, and unnecessary Charge to the Suiters, and for their more expeditious and certain course for Relief.

London, Printed for Robert Pawlet at the Sign of the Bible in *Chancery-Lane*, near *Fleet-Street*. 1660.

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(5)



A
COLLECTION
of such of the
ORDERS
heretofore used in
Chancery.

Bills.



That no Councillor
do put his hand
to any Bill, An-
swer, or other plea-
ding, unless it be drawn, or

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at

at least perused by himself in the paper draught before it be ingrossed (which they shall do well for their own discharge, to sign also after perusal) And Council are to take care that the same be not stuffed with repetition of Deeds, Writings, or Records, *in hæc verba* : but the effect and substance of so much of them only as is pertinent and material to be set down, and that in brief terms, without long and needless Traverses of points not traversable, tautologies, multiplication of words, or other impertinencies occasioning needless prolixity, to the end the ancient Brevity

Brevity and Succinctness in Bills, and other pleadings, may be restored and observed: Much less may any Council insert therein matter meerly criminous or scandalous, under the penalty of good costs to be laid on such Council, and paid to the party grieved, before such Council be heard in Court.

That all Bills be dated the same day they are brought into the Six Clerks Office, and that no Six Clerk presume to Antedate any Bill, and that no Under-clerk presume to keep any Bill by him, but with the first opportunity de-

liver the same to the Six Clerk, or his allowed Deputy, in his absence to be accordingly filed.

No Bill, Answer, or other pleading shall be said to be of Record, or to be of any effect in Court until the same be filed with such of the Six Clerks with whom it ought properly to remain.

Subpœna's.

THat all Plaintiffs may have liberty to take forth *Subpœna's ad respondendum*, before the filing of their Bills, if they please,

please, notwithstanding any late Order or usage to the contrary.

That every *Subpœna* to answer, revive, review, rejoyn, to testifie or to hear judgement, shall be served personally, or left at the Defendants dwelling house or place of residence, with one of that Family. And no Clerk of this Court shall issue any Attachment for not appearing, but upon Affidavit first made, positive and certain of the day and place of such service of the *Subpœna*, and the time of the Return thereof, whereby it shall appear that such service

was

was made, if in *London*, or within twenty miles thereof, four dayes at the least, excluding the day of such service: And if above twenty miles, then to have been eight dayes before such Attachment entered: And that such Attachment shall not be discharged, but upon payment of usual costs, and so the succeeding costs to be double.

Pleas and Demurrers.

FOrasmuch as the Defendant being served with process

cess to answer, may by advice of Council upon sight of the Bill, only be enabled to demurr thereunto, if there be cause, or may by like advice be enabled to put in any just plea, which he hath in disability of the person of the Plaintiff, or to the Jurisdiction of the Court : It is therefore Ordered, That such Demurrer, or such plea in disability, or to the Jurisdiction of the Court, under the hand of Council learned, shall be received and filed, although the Defendant do not deliver the same in person, or by Commission. And therefore if the Defendant shall pray a Commission,

mission, and thereby return a Demurrer only, or only such a plea, which shall be afterwards over-ruled, the Defendant shall pay five marks costs: and although it be allowed, the Defendant shall have no costs in respect of the Plaintiffs needless trouble occasion'd by such Commission.

Every Demurrer shall express the several causes of Demurrer, and shall be determined in open Court. And such Pleas also as are grounded upon the substance and body of the matter, or extend to the jurisdiction of the Court, shall be determined in open Court, And

And for that purpose, the Defendant is to enter the same with the Register, within eight dayes after the filing thereof; or in default of such entry made, the same shall be disallowed of course, as put in for delay. And the Plaintiff may then take out process to enforce the Defendant to make a better answer, and pay forty shillings costs: and the same shall not afterwards be admitted to be set down or debated, unless upon motion it shall be ordered by the Court; And if any cause of Demurrer shall arise, and be insisted on at the debate of the Demurrer (more than is
par-

particularly alledged, yet the Defendant shall pay the ordinary costs of Over-ruling a Demurrer (which is hereby Ordered to be five marks costs) if those causes which are particularly alledged be disallowed : although the Bill in respect of that particular so newly alledged, shall be dismissed by the Court.

A Plea of Outlawry, if it be in any suit for that duty, touching which relief is sought by the Bill, is insufficient according to the Rule of Law, and shall be disallowed of course as put in

in for delay : And the Plaintiff may notwithstanding such Plea, take out process to enforce the Defendant to make a better answer, and pay five Marks costs ; otherwise a Plea of Outlawry is alwayes a good Plea , so long as the Outlawry remaineth in force : And therefore the Defendant shall not be put to set it down with the Register : And after the said Outlawry reversed, the Defendant upon a new *Subpœna* served on him, and payment unto him of twenty shillings costs, shall answer the same Bill, as if such
 Out-

Outlawry had not been: But if the Plaintiff conceive such Plea of Outlawry thorough mispleading, or otherwise to be insufficient, he may, upon notice given to the Clerk on the other side, set it down with the Register, to be debated with the rest of the Plea's and Demurrers in course: But if the Plaintiff shall not in such Case enter it with the Register within eight dayes after the same shall be filed, the Defendant may take out process against the Plaintiff for his Ordinary costs of five marks, as if the

the same had been heard.

The Dependency of a former Suit for the same matter, is also a good plea; and therefore the Defendant shall not be put to set it down with the Register; But if the Plaintiff be not satisfied therewith, the same shall be referred to one of the Masters of the Court to certify the truth thereof; and if it shall be determined against the Plaintiff, he shall pay five pounds costs to the Defendant; But such reference shall be procured by the Plaintiff, and a report thereupon within one
 B Month

month after the filing of such a
 plea, otherwise the Bill to pe
 stand dismissed of course, with far
 the ordinary costs of seven
 Nobles.

If after a Suit commen- pr
 ced at the Common Law, or wi
 any other inferiour Court, no
 a Bill shall be exhibited in this be
 Court to be relieved for m
 the same matter, the de m
 pendancy of the former Suit vi
 shall be admitted as a good ty
 plea, and the Defendant m
 not be put to motions for to
 an Election or Dismission,
 and that plea shall be pro-
 ceeded in, as in case of

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a Plea of a former Suit de-
pending in this Court for the
same matter.

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After a Contempt duly
prosecuted to an Attachment
with proclamation returned,
no Commission to answer shall
be made; nor no Plea or De-
murrer admitted, but upon
motion in Court, and Affida-
vit made of the parties inabili-
ty to travel, or other good
matter to satisfy the Court
touching that delay.

Answers.

AFTER a Commission once obtained to answer, no second Commission shall be granted without special Order of Court upon good reason shewed to induce the same, or the Plaintiffs own assent.

An Answer to a matter charged as a Defendants own fact, must regularly be without saying, *To his remembrance,*

brance, or *As he believeth*, if it be laid to be done within seven years before, unless the Court upon exception taken, shall find special cause to dispence with so positive an answer. And if the Defendant deny the fact, he must traverse or deny it (as the cause requires) directly, and not by way of negative pregnant. As if he be charged with a receipt of a summe of money, he must deny or traverse that he hath not received that sum, or any part thereof, or else set forth what part he hath received. And if a fact be laid to be done with divers circumstances,

ces, the Defendant must not deny or traverse it literally, as it is laid in the Bill, but must answer the point of substance positively and certainly.

When the Defendants have answered, the Plaintiffs and their Council are seriously to advise of the Answers, and if they find that upon the Answer alone, without further proof, there be sufficient ground for a final Order or Decree, to proceed upon the Answer without further lengthening of the Cause. Or if it be needfull to prove one or a few particular points to reply unto those points, and not to draw

draw into pleading or proofs any more than those necessary points, thereby making long books, and putting both sides to unnecessary Charges, the Defaulters herein to be punished by paying the charge of the Copies, or otherwise, as the cause shall require.

If a hearing be pray'd upon Bill and Answer, the Answer must be admitted to be true in all points, and no other Evidence to be admitted, unless it be matter of Record to which the Answer refers, and is proveable by the Record:

The Plaintiff is therefore to be well advised, that the Court be not put to an unnecessary trouble, and himself to a certain charge, in bringing his cause to hearing which will not bear a Decree.

Exceptions.

WHen a Plaintiff excepteth to a Defendants Answer, he shall set down his Exceptions in Writing; and if the Answer be filed in

in Term time, he shall the same Term, or within eight dayes after that Term, deliver the same Exceptions to the Council whose hand is to the Answer, or to the Defendants Clerk in Court; And if the Detendant do within eight dayes after such delivery, satisfy the Plaintiff of the invalidity of those exceptions, or amend the Answer in the same time or agree with the Plaintiff, or his Clerk, or Solicitor, to amend it by such time as they shall agree upon, and do amend it accordingly, and pay twenty shillings costs, the Plaintiff

Plaintiff shall go on to Reply ; But if the Defendant shall fail to do the same, or put in a second insufficient Answer , the Plaintiff may get the Answer or Answers referred : and if the same shall be ruled insufficient, the Defendant shall pay forty shillings costs. But if an Answer be filed in Vacation time, then the Plaintiff shall have eight dayes in the beginning of the next Term, if he see cause to put in his Exceptions , and deliver them in writing in like manner, as before is appointed : and the Defendant within eight days after such delivery to proceed as before is ordered.

If

If the Plaintiff shall procure a reference of an insufficient Answer within the time before limited, and the same be reported good, the Plaintiff shall pay the Defendant forty shillings costs.

If the first Answer be certified insufficient, and ruled so, the Defendant shall pay forty shillings costs as aforesaid: if the Answer was put in in person: But if the same came in by Commission, the Defendant shall have fifty shillings costs, and no new Commission shall be awarded for
ca-

taking a second Answer, unless it be by Order, upon Affidavit made of the parties inability to travel, or other good matter, to satisfy the Court touching that delay, and first paying the costs of such insufficient Answer, or by the Plaintiff, or his Clerks assent for expediting the cause. If the second Answer be reported insufficient unto any the points formerly certified, the Defendant shall pay three pounds costs : And upon the third insufficient, four pounds costs : And upon a fourth Answer certified insufficient, he shall pay five pounds costs,
 And

and be examined upon Interrogatories to the points reported insufficient, and shall be committed, until he hath perfectly answered those Interrogatories, and paid the costs, in respect of the great vexation and delay which in such cases will happen to the Plaintiff.

No *Subpœna ad rejun-
dum*, shall be of force, unless there be a Replication filed in the cause according to the course of the Court, before the issuing out of the said *Subpœna*, or at least before the return thereof : And the parties
up-

upon whom such *Subpœna* shall be served, finding no replication filed before the return thereof, shall have the ordinary costs taxed according to the course of the Court.

Examination of Witnesses.

WHen the parties are at issue, and proceed to examine Witnesses, the Interrogatories are to be penned with care, that the same be pertinent, and only to the points

points necessary, and the Witnesses are to be sorted and examined on those Interrogatories only that their Testimony doth extend unto, without the needless Interrogatories of matters unnecessary, immaterial, as well to avoid the charge of both parties, Plaintiff and Defendant, in superfluous examinations, as that apt Interrogatories (which are the life of the cause) may be exhibited.

No Witness shall be examined in Court by the Examiner, without the privity
of

of the adverse party , or of
 his Clerk who deals for the
 adverse party to whom the
 person to be examined shall
 be shewed, and a Note of his
 name and place of dwelling
 delivered in writing, by such
 as shall produce him; and
 the Examiner is to take care,
 and be well satisfied that such
 notice be given, and then
 shall adde to the Title of
 the Witnesses Examination,
 the time of such notice gi-
 ven, and the name of that
 person to whom it is gi-
 ven , and by whom , that
 at the hearing of the cause
 the Suitor be not delayed
 upon

upon pretence of want of notice.

When Witnesses are examined in Court upon a Schedule of Interrogatories, there shall be no new Interrogatories put in to examine the same Witnesses, nor shall any Witnesses be examined in Court after the day of Publication, though they were sworn before, so as a Copy of the Rule or Order whereby Publication passed, be delivered to the Examiner, that he may take notice thereof.

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That

That all Copies of Bills, Answers, Depositions, or other Record, or thing whatsoever belonging to the Six Clerks to Copy, shall contain fifteen lines at the least in every sheet of Paper, written fairly, and orderly, and unwaistfully : And that no such Copy shall be henceforth delivered out of the Office, before it be signed by such Six Clerk to whom it belongeth with his own proper hand-writing, or by his Deputy in his absence. Nor any Copy not so signed, shall be made use of in Court, or before any Master, which

all

s, all Clyents are to take notice of, to the end they may be prepared with such Copies at the hearing of their causes.

And whereas many inconveniencies do frequently arise by undue Copying Bills, Answers, and other Pleadings, before they be filed; so as they are either never filed, or very irregularly, to the prejudice of the Clyent, and trouble to the Court, by unnecessary motions: It is therefore ordered, That no Under-clerk, or his Man, or other for
C z him,

him, do from henceforth presume to copy any Bill, or other Pleading whatsoever, before it be duly filed with the proper Six Clerk, who ought to file the same.

For preventing of Perjury, and other Mischiefs often appearing to the Court, the Examiner is to examine the Deponent to the Interrogatories directed *seriatim*, and not to permit him to read over, or hear read any other Interrogatories, until that in hand be fully finished, much less is he to suffer the Deponent to have the Interrogatories

and

and pen his own Depositions,
 or depart after he hath heard
 an Interrogatory read over,
 untill he hath perfected his Ex-
 aminations thereunto. And if
 any Witness shall refuse so to
 conform himself, the Exami-
 ner is thereof to give notice
 to the Clerk of the other side,
 and to proceed no further in
 his Examination, without the
 consent of the said Clerk; or
 Order made in Court to war-
 rant his so doing.

The Examiner shall not
 examine any Witnesses to in-
 valid the Credit of any other

Witness, but by special Order of the Court, which is sparingly to be granted, and upon Exceptions first put into writing, and filed with the Examiner without fee, and notice thereof given to the adverse party, or his Clerk, together with a true Copy of the said Exceptions at the charge of the party so examining.

The Examiners (in whom the Court reposeth much confidence) are themselves in person to be diligent in Examination of Witnesses, and not intrust the same to mean and inferior Clerks; and are to
take

take care to hold the Witness to the point interrogated, and not to run into extravagances, and matters not pertinent to the Question, thereby wasting paper for their own profit, of which the Court will expect a strict accompt.

The Examiners are to take care that they employ under them in their Office, none but persons of known integrity and ability, who shall take an Oath, Not to deliver or make known directly, or indirectly, to the adverse party, or any other, save the Deponent, who comes to be examined a-

ny of the Interrogatories delivered to be examined upon any examination by him taken, or remaining in the Examiners Office, or Extract, Copy, or Breviat thereof, before publication be thereof passed, and Copies thereof taken. And if any such Deputy, Clerk, or person so employed, shall be found faulty in the Premisses, he shall be expelled the Office, and the Examiner who so employed him, shall be also answerable to the Court for such misdemeanour, and to the party grieved, for his costs and damages sustained thereby :

by : And such Solicitor, or other person, who shall be discovered to have had a hand therein, shall be liable to such censure for the offence, as the Court shall find just to inflict upon him.

In examining of Witnesses the Examiner shall not use any idle Repetitions, or needless Circumstances, nor set down any Answer to the Questions, to which the Examinant cannot depose, other than thus, *To such an Interrogatory this Exa-*

Examinant cannot depose. And in case such impertinences be observed by the Court, the Examiner is to recompence the charge thereof to the party grieved, as the Court shall award.

That after Witnesses examined in Court, there shall be two Rules only given for Publication, (*viz.*) An Ordinary Rule, and then a day to shew cause why Publication should not pass, and upon the return of a Commission, one Rule only to be

be given, within which times
aforesaid, if the other side
do not shew unto the Court
good cause to the contrary,
Publication shall pass accord-
ingly.

All Pleadings, Commissions,
Certificates belonging to the
Six Clerks to receive, shall
immediately, upon the bring-
ing in, or return thereof in-
to this Court, be delivered
to such Six Clerks own hands,
as shall be Attorney in the
cause; or to the hands of
his Deputy in his absence:
And not be from henceforth
in

NOTE

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ing in, or return thereof in-
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as shall be Attorney in the
cause; or to the hands of
his Deputy in his absence:
And not be from henceforth
in

in any wise kept back : nor any Depositions or Answers taken by Commission; or other Commission to be opened by any of their Under Clerks, before they be so delivered.

No Bills , Warrants, Pleadings , Commissions, Decrees , Dismissions , or other Records whatsoever, shall from henceforth be carried to be ingrossed , inrolled , copyed , or otherwise used by any of the Under Clerks to their Chambers, or elsewhere , out of the Six Clerks

Clerks Office, or Lodgings there. And so soon as any Clerk shall have ingrossed, inrolled, copyed, or used any such Warrant, Pleading, Commission, Decree, or other Record in the said Office, he shall bring the Original thereof presently back to such Six Clerk to whom the custody thereof doth belong, for the more safe keeping and disposing thereof according to the ancient usage.

Commissions

Commissions.

WHen a Commission is awarded to examine Witnesses, if by default of him that hath the carriage of the Commission, or by his Commissioners nothing is done, he shall bear all the charges that the other side was put unto about that Commission, either for Fees of Court, bringing or entertaining Commissioners, or Witnesses, or otherwise to be ascertained by the Oath

Oath of the party, or of him that disbursed the money for him, and shall renew the Commission at his own charges.

When a Commission is awarded to examine Witnesses, and the one side produceth and examineth all his Witnesses, and the other side doth not, but pray a new Commission, if it be granted, he shall bear all the charges of the renewed Commission, both in Court, and in the Country, as well for the charge and entertainment of his own Commissioners, as of the Commissioners of the other side, and the other side shall be permitted to cross
exa-

examine the Witnesses produced by him that reneweth the Commission; but if he will examine any other Witnesses of his own, then he shall bear his own part of the charge; the charges herein mentioned to be ascertained by the Oath of the party, or of him that disbursed the money for him.

He at whose instance a Commission to examine Witnesses after a former Commission executed and returned, is once renewed, and he by whose default, or by default of his Commissioners, a former Commission was not executed, & thereupon it is renewed, shall at his peril examine

all

all his witnesses by that renewed Commission, or examine them in Court by the end of the Term, wherein that renewed Commission is retournable without any more or further delay.

That no Commission *ad examinandum testes* be executed in London, or within ten Miles thereof, without special order first obteyned upon Affidavit made of the parties inabilityie to travel, or other good matter, And that all Depositions taken by Commission in London, or within ten Miles thereof, without special order as aforesaid, shall stand superseded and suppressed *ipso facto*, and not allowed

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lowed to be read as Evidence at the hearing of the Case. And the parties who shall Cause the same to be so executed, shall suffer such punishment for their contempt and irregularitie as the Court shall think fit.

Depositions.

WHere either partie Plaintiff or Defendant, obtaineth an Order to use *Depositions* of Witnesses taken in another cause, the adverse partie may likewise use the same without motion, unlesse he be upon special reason shewed to the Court by that partie first desiring the same.

same, inhibited by the same order so to do.

No motion shall be made in Court, or by petition for suppressing of Depositions as irregularly taken, until the six Clarke not towards the cause have been first attended with the complaint of the partie grieved, and shall certify the true state of the Fact to the Court, with their opinion: If the Attourneys or Clarkes on either side, shall not for the ease of their Clyents agree before them, for which purpose a rule for attendance of the six Clarke in such case, shall be entred of course with the Register at the desire of the partie complain-

ing, which shall warrant their proceedings, and certificate to the Court.

Causes to be set downe for hearing.

THe six Clarkes who are the only Attourneys in this Court, ought to inform themselves continually of the state and proceedings of their Clyents causes, whereby they may be able to defend their Clyents, and to give account to the Court as the Attourneys in all other Courts do, and not to leave the care and knowledge thereof upon their under Clarkes who

who attend not in Court , and the Clyents and such as follow their causes , are to acquaint their Attourneys for that purpose.

Such as desire to have their causes set down for hearing , must repair to the fix Clarke that is Attourney in the cause, at least six dayes before the end of the Term , that the fix Clark may inform himself of the state of the Cause , of the long or short dependance thereof in Court, of the Antiquity of the publication, of the weight or value of the causes. and all other Circumstances material to inform the Lord Chancellour, Lord Keeper, or Master of the

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rolls,

Rolls of the time of the setting down of causes, and the six Clark may not refuse to offer the same to be set down, if he be attended in such time as aforesaid, nor come unprepared to inform the Lord Chancellor, Lord Keeper, or the Master of the Rolls, of the nature and circumstance of the cause aforesaid. And neither he, nor any of his under Clarks, nor any of the Registers, are to take any Fee, Gratuity, or Reward for the same.

No money, or other reward, shall in any wise be exacted, or taken directly or indirectly by any of the six Clarks, or any of the Registers for, or in their behalf,

halfe, for the preferring, and setting down of any cause for hearing, but only such Fees as are behind, and unpaid of their termly Fees and Duties, (if any be) and if any case happen to be set down for hearing, wherein they shall not have been satisfied their due Fees and Duties, they may alleadge the same in stay of hearing of the cause.

*Proceedings in hearing
Causes.*

WHere no Councel appears for the Defendant at the hearing, and proces appears to haue been duly served,

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ved, the answer of such Defendant shall be read, and if the Court upon such hearing shall find cause to Decree for the Plaintiff, yet a day shall regularly be given to the Defendant to shew cause against the same, but before he be admitted thereunto, he shall pay downe to the plaintiff, or his Attourney in Court, such costs as the Court upon that hearing shall assesse, and the order is to be penned by the Register accordingly, (*Viz*) *It is decreed so and so, &c.* Unlesse the Defendant shall by such a day pay to the plaintiff, or his Attourney in Court costs, and shew good cause to the contrary, and such

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Defendant upon his shewing
cause, shall first produce a
Certificate from the Plaintiffs
Attourney in Court, that he
hath paid the costs, or Affidavit
of tender or refusal thereof.

Contempts.

ALL proces of contempt
shall be made out into
the County where the party
presented is resident, unlesse he
shall be then in, or about *London*,
in which case it may be
made into the Country where
the partie then is. And if any
person shall be taken upon
proces otherwise, or irregularly
illu-

issued, the partie so taken first
 appearing unto, and satisfying
 the proces which did regularly
 issue against him, shall be dis-
 charged of his contempt, and
 have his full costs to be taxed of
 course by the six Clarkes not to-
 wards the cause, for such undue
 or irregular prosecution from
 the time that the error first
 grew, without motion or other
 order.

Every Suitor who prosecu-
 teth a Contempt, shall do his
 best endeavour to procure each
 severall proces to be duely ser-
 ved, and executed upon the par-
 tie prosecuted, and his willfull
 default therein appearing to the
 Court, such person offending
 shall wit

shall pay unto the party grieved
 good costs, and lose the bene-
 fit of the proces returned with-
 out such endeavour.

And All attachments in proces
 shall be discharged upon the de-
 fendants payment, or tender to
 the Plaintiffs Clark and refusall
 of the ordinary costs of the
 Court, and filing his Plea, An-
 swer or Demurrer (as the case
 regularly requires) but upon
 motion in Court, or petition
 in that behalf.

And if after such conformity
 and payment of the costs (or
 tender and refusal thereof) any
 further prosecution shall be had
 of the said contempt, the party
 prosecuted shall be discharged
 with his costs. If

If after appearance, and Interrogatories exhibited as aforesaid, the partie appearing shall depart before he be examined (without leave of the Court) he is upon motion and certificate from the Register of such his departing and not being examined, and of the Interrogatories exhibited from the Examiner, to stand committed without further Day given unto him, and is not to be discharged from such his contempt untill he hath been examined and cleered of his contempt; And if he shall upon his examinations, or by proofs be found in Contempt, he shall cleere such his con-

In Contempt, and pay the Prose-
 cutor his costs, before he be
 discharged of his Imprison-
 ment. And although he be
 cleared of his said contempt,
 yet he shall have no costs, in
 respect of his disobedience in
 not being examined without
 the Prosecutors trouble and
 charges in moving the Court
 as aforesaid.

In Case of prosecution of
 a Contempt for breach of an
 Order of the Court, or other-
 wise grounded upon an affi-
 davit, the Interrogatories shall
 not be extended to any other
 matter then what is compre-
 hended in the said Affidavit or
 Order. And. if any other shall
 be

be exhibited, the partie examined may for that reason Demurre unto them, or refuse to answer them.

Where the partie prosecuted upon a Contempt, hath denied it, or the same doth not clearly appear by his examinations, the Prosecutor may take out a commission of Course to prove the Contempt, and in such case the partie prosecuted may name one Commissioner to be present at the Execution of the Commission, and may henceforth (notwithstanding the former usage to the contrary) crosse Examine the Witnesses produced against him to prove

xaprove the Contempt, but is
 De not to examine any Witnesses
 to on his part, unlesse he shall
 cu satsifie the Court touching
 de some matter of fact, necessary
 not to be proved for clearing the
 in truth. In which case the
 ay Court if there be cause, will
 of give leave to him to Exa-
 on mine witnesses to such parti-
 the cular points set down; and the
 me other side may crosse Exam-
 re ine such Witnesses, But the In-
 the terrogatories on both sides are
 ce to be included in the Com-
 he mission.

he Where a contempt is pro-
 y secuted against one, who by
 res reason of Age, Sicknes, or
 to other cause is not able to tra-
 ve vell,

vel. Or in case the same be
 against many Persons who are
 Servants or Workmen, that live
 farr off the Court, will upon
 Motion and Affidavit thereof,
 grant a Commission to Exam-
 ine them in the County, which
 Commission shall be sued out
 and Executed at the charge of
 the Person or Persons desiring
 it, Directed to such indiffe-
 rent Commissioners as the Pro-
 secutors of the Contempt shall
 name (as in other cases) and
 one Commissioner only at the
 Nomination of the partie pro-
 secuted as aforesaid, Which
 Commission shall be executed
 at such convenient time and
 place, as the six Clerks not to-
 wards

wards the cause upon hearing the Clerks upon both sides shall set down.

Upon every Examination and proof of a Contempt referred to any of the Masters of the Court to certifie whether the Contempt be confessed or proved, or not : The Master in his Certificate thereof made to the Court, shall likewise assess and certify the costs to either party as there shall be cause, without other Order or Motion made for that purpose.

Commitment.

THe Court being tender of the liberty of mens Per-
E
sons

sons, and to avoid their Imprisonment upon malicious Affidavits, which are often made by one mean and ignorant Person, and which hath heretofore by the course of the Court drawn on a Commitment, doth order, that from henceforth, where Oath shall be made of misdemeanour in beating or abusing, the party upon suing the Process or Orders of the Court, the party offending shall stand committed upon motion, and no examination is in that case to be admitted.

And when Affidavit shall be made by two persons of Scandalous or Contemptuous words

words against the Court or the process thereof, the party offending shall likewise stand committed upon motion, without any further examination. And a single Affidavit in such case shall be sufficient to ground an Attachment; Whereupon such Person shall be brought in to be examined: And if the misdemeanour shall be confessed, or proved against him, he shall stand committed untill he satisfie the Court touching his said misdemeanour, and pay the Prosecutor his costs: And if he shall not be thereof found guilty, save by the Oath of the party who made

such Affidavit, he shall be discharged, but without any costs, in respect of the Oath made against him as aforesaid.

Decrees and Dismissions.

THat all Decrees and Dismissions pronounced upon hearing the cause in this Court be Drawn up, Signed, and Inrolled before the first Day after the next *Michaelmas*, or *Easter* Term, after the same shall be so pronounced respectively, and not at any time after, without special leave of the Court.

When the party is committed,

mitted, or brought in by a Serjeant at Arms for breach of a Decree, he is not to be enlarged untill he hath performed the Decree in all things that are to be presently done, and given Security by Recognizance with Sureties, as the Court shall order to perform the other parts of the Decree (if any be to be performed) at future dayes and times appointed by the Decree.

No Decree or Dismission shall be presented by the Register of this Court, or his Deputy, or any other, to the Lord Chancellor, Lord Keeper, or Master of the Rolls, to

be Signed, before it be Signed by that Six Clark to whom it belongeth, of his proper hand writing : Or by his Deputy in his absence.

To the intent the Decrees and Dismissions of this Court may be easily found upon search, the Six Clerks are to keep a publick Book for the entring all decrees and Dismissions which hath been made and signed by the Lord Chancellour since the Nine and Twentieth day of *May* last, and which shall be made and so signed in this Court: And to that end the Register shall at the beginning of every Term, deliver into one of the

the

the Six Clerks a List of all Decrees and Dismissions Signed by the Lord Chancellour, the Term and Vacation before.

If a Bill be regularly and justly dismissed of Course, or by order for want of prosecution, no motion shall be admitted for the retainer thereof, without a Certificate from the Defendants Attourney in Court, that the costs of the Dismission are pay'd, to the end unnecessary charge to the parties by several motions for one and the same matter, may henceforth be avoyded.

Masters.

THat the Masters do not passe any exemplifications of Depositions taken in Chancery upon a bare sight of the Copies only, without first calling the Officer or Officers, who have the custody of the Records, or Originals of such Copies, or some sworn Clerk of his, or their Office, who are to produce the same before them, to warrant their Signing thereof.

The Masters are not upon the importunity of Councel, (how eminent soever) or their Clients, to return speciall Cer-

Certificates to the Court, unless they are required by the Court so to do, or that their own judgement in respect of difficulty leadeth them unto it, such kind of Certificates for the most part occasioning a needless trouble, rather than ease to the Court, and certain expence to the Suitor.

Their Certificates and Reports are to be drawn as succinctly as may be (preserving the matter clearly for the judgement of the Court) and without recital of the several points of the Orders of Reference (which do sufficiently appear by the Orders themselves)

selves, or the several Debates of Council before them : unless that in case where they are doubtful, they shortly represent to the Court the reasons which induce them so to be.

The Masters of the Court are to take notice, That when the Court requires to be satisfied from them, touching any matter alledged to be confessed, or set forth in the Defendants answer, It is intended, that without further Order, they should take consideration of the whole Answer or Answers of the Defendants, and certifie not only whether the matter be so confessed or set forth, but also any other matter avoiding
that

s of that confession, or ballancing
 less the same, that the Court may
 are receive a clear and true Infor-
 ent mation.
 ich

urt The Masters in taking Affi-
 en davits, and administring of
 is- Oaths, in Cases duly present-
 ny ed unto them, are to be circum-
 d, spect and wary, that the same
 ts be reverently and knowingly
 at given and taken, and are there-
 y fore to administer the same
 of themselves to the party, and
 rs where they discern him rash
 e or ignorant, to give him some
 r conscionable admonition of
 t his duty, and be sure he under-
 g stand the matter contained in
 his Affidavit, and read the same
 over, or hear it read in his pre-
 sence

sence, and subscribe his name or mark thereunto, before the same be certified by the Master, who is not to receive or certify any *Affidavit*, unless the same be fairly and legibly written without blotting, or Interlineation of any word of substance.

In all matters referred to the Masters of the Court, their Certificate (not being to ground a Decree) if it be positive, is to stand, and Process may be taken out to enforce performance thereof, without further motion, unless the adverse party, upon notice given (to his Attorney or Clerk in Court,) that such report is filed against him, shall within eight dayes
after

me after such notice (if it be given
the in Term, or while the general
er, Seals for Motions are held, or
fie within four dayes of the next
ne Term, if it be given after) ob-
en tain some Order in Court to
e. controul or suspend the same,
e. And in case of an insufficient
he Answer certified by the Ma-
eir sters, the Plaintiff may imme-
nd diately take out Proceſs against
to the Defendant for his costs, and
e to make a better Answer, as hath
n. formerly been used.

Where after Certificate or
Report made by the Masters of
the Court, either Partie shall
appeal from the same, to the
judgment of the Court, he shall
first file his Exceptions there-
unto

unto briefly, with the Register, and deposite with him fourty shillings to be paid to the other partie for his Costs, if he prevail not in such Appeal : And then the Register shall enter such causes of Appeal in a Paper, in order as they are brought unto him to be determin'd by the Court, in course upon days of Motions, And notice thereof to be given by the partie appealing, to the Clerk of the other side. And also the Registers Paper to be set up in the Office two dayes before ; And if the Court shall not alter the Masters Report, then the fourty shillings deposited to be paid to the party defending the same,

er, same, with such increase as the
 ty Court shall find cause to im-
 er pose, otherwise to be restored
 re. to the party appealing, and
 nd both without charge.

er The Masters Extraordinary
 a. shall not within twenty miles
 ht of *London*, take any Affidavits,
 oy or Acknowledgment of *Deeds*,
 ys or Recognizances, or do any
 e. other Act incident to the place
 o. of Master of the Chancery. And
 o. to the end it may appear, whe-
 i. ther any Master Extraordinary
 e shall notwithstanding presume
 d so to do, Every such Master
 e shall express the name of the
 . Town and County where he
 t shall take any *Affidavit*, or the
 e Acknowledgment of any *Deed*
 or

or Regcognizance, otherwise the same shall not be held Authentical, nor omitted to be Filed or Inrolled.

Cursitor.

WHereas there is an Irregular practice lately introduced, of making forth Original Writs of *Clansum fregit*, in Trespass, without any other cause of Action therein expressed of Returns past, when in truth the proper cause of Action, is either Debt, Case, Ejectment, or some other cause of Action; And by process thereupon, the Defendant is not only

wife only usually arrested, but fre-
 Au- quently proceeded against to
 be the Outlawry, to the great
 damage of the Subject, and the
 loss and diminution not only
 of the proper Original Writs
 issuing out of this Court, but
 also of his MAJESTIES Re-
 venue for the casual Fines
 thereupon due and payable. It
 is therefore Ordered.

That no Curfitor of this
 Court from, and after the first
 day of Trinity Term next
 ensuing, make, or cause to be
 made any Writs of *Clausum*
fregit, or *Clausum & Domum*
fregit within the City of Lon-
 don, without special Warrant
 from the Lord Chancellor, or
 F Lord

Lord Keeper of the Great Seal of *England*, or Master of the Rolls for the time being, unless it be made appear by Affidavit, or some other probable evidence that the same is the true and proper cause of Action.

That no Cursitor of any other County do make, or permit to be made within his respective Division any of the said Writs of *Clausum fregit*, or *Clausum & Domum fregit*, of any other Return, then of the last Return of every respective Term, unless it be to warrant Arrests, and *Testatum Capias* only.

That no Cursitor shall from
and

and after the end of *Michaelmas* Term next ensuing, make, or permit to be made within his respective Office and Division, any Original Writs whatsoever of any Return past, unless he shall receive the Instructions for making thereof within the Term wherein the said Writs are to be retournable, Or at the farthest, on, or before the first Essoign day of the next succeeding Term, without special Warrant from the Lord Chancellour, or Lord Keeper of the Great Seal of *England*, or Master of the Rolls for the time being, Or good cause to be allowed of

by the Principal, and Assistants of the Company of the Cursitors for the time being, or the Major part of them, at their Publick Meetings according as heretofore hath been used.

The Cursitors are to take care that they imploy under them in their Office, none but Persons of known integrity and ability, and if any Clerks, or Persons so imployed, shall be found faulty in the premisses, he shall be expelled the Office, And the Cursitor who so imployed him, shall be answerable to the Court for such Misdemeanours, And such Person, or Persons, who shall be discovered to do, or proceed

ceed otherwise then is before mentioned, shall be liable to such censure for his offence, As the Court shall find just to inflict upon him.

Petitions.

NO Injunction for stay of Suit at Law shall be granted, revived, dissolved, or stayd upon Petition. Nor any Injunction of any other nature, shall pass by Order upon Petition, without notice, and a Copy of the Petition first given to the other side, And the Petition filed with the Register, and the Order entered.

No Sequestration, Dismission, Retainers upon Dismissions, or final Orders are to be granted upon Petition.

No former Order made in Court is to be altered, or explained upon a Petition; Or Commitment of any Person taken upon Process of Contempt to be discharged, but upon hearing the adverse party, his Attorney or Clerk toward the Cause.

Paupers.

After an Admittance *In forma pauperis*, No Fee, Profit, or Reward shall be taken

taken of such party admitted by any Councillor or Atturney, for the dispatch of the *Paupers* business, during the time it shall depend in Court, and he continued *in forma pauperis*; nor any Contract, nor Agreement be made for any Recompence, or Reward afterwards. And if any person offending herein shall be discovered to the Court, he shall undergo the displeasure of the Court, and such further punishment as the Court shall think fit to inflict upon him, and the party admitted, who shall give any such Fees or Reward, or make any such Contract or Agreement, shall be from thenceforth dispaup-
 .

ed, and not be afterwards admitted again in that Suit to prosecute *in forma pauperis*.

If it shall be made appear to the Court, That any person prosecuting *in forma pauperis*, hath sold or contracted for the benefit of the Suit, or any part thereof, whiles the same depends, such cause shall be from thenceforth totally dismissed the Court, and never again retained.

Such Council or Attorney as shall be assigned by the Court, to assist the person admitted *in forma pauperis*, either to prosecute or defend, may not refuse so to do, unless they satisfy the Lord Chancellor,

or

or Lord Keeper of England, or Master of the Rolls, who granted the admittance, with some good reason of their forbearance.

That Councillor who shall move any thing to the Court, on the behalf of a person admitted *in forma pauperis*, ought to have the Order of Admittance with him, and first to move the same before any other motion. And if the Register shall find that such person was not admitted *in forma pauperis*. he shall not draw up any Order upon the second motion, made by any such Council, but he shall lose the fruit of such second motion, in re-

respect of his abuse to the Court.

No process of Contempt shall be made forth, and sent to the Great Seal, at the Suit of any person prosecuting as Plaintiff *in forma pauperis*, untill it be signed by the Six Clerk, who deals for him, and the six Clerks are to take care, that such process be not taken out needlessly, or for vexation, but upon just and good grounds, as they will answer it to the Court, if the contrary shall appear.

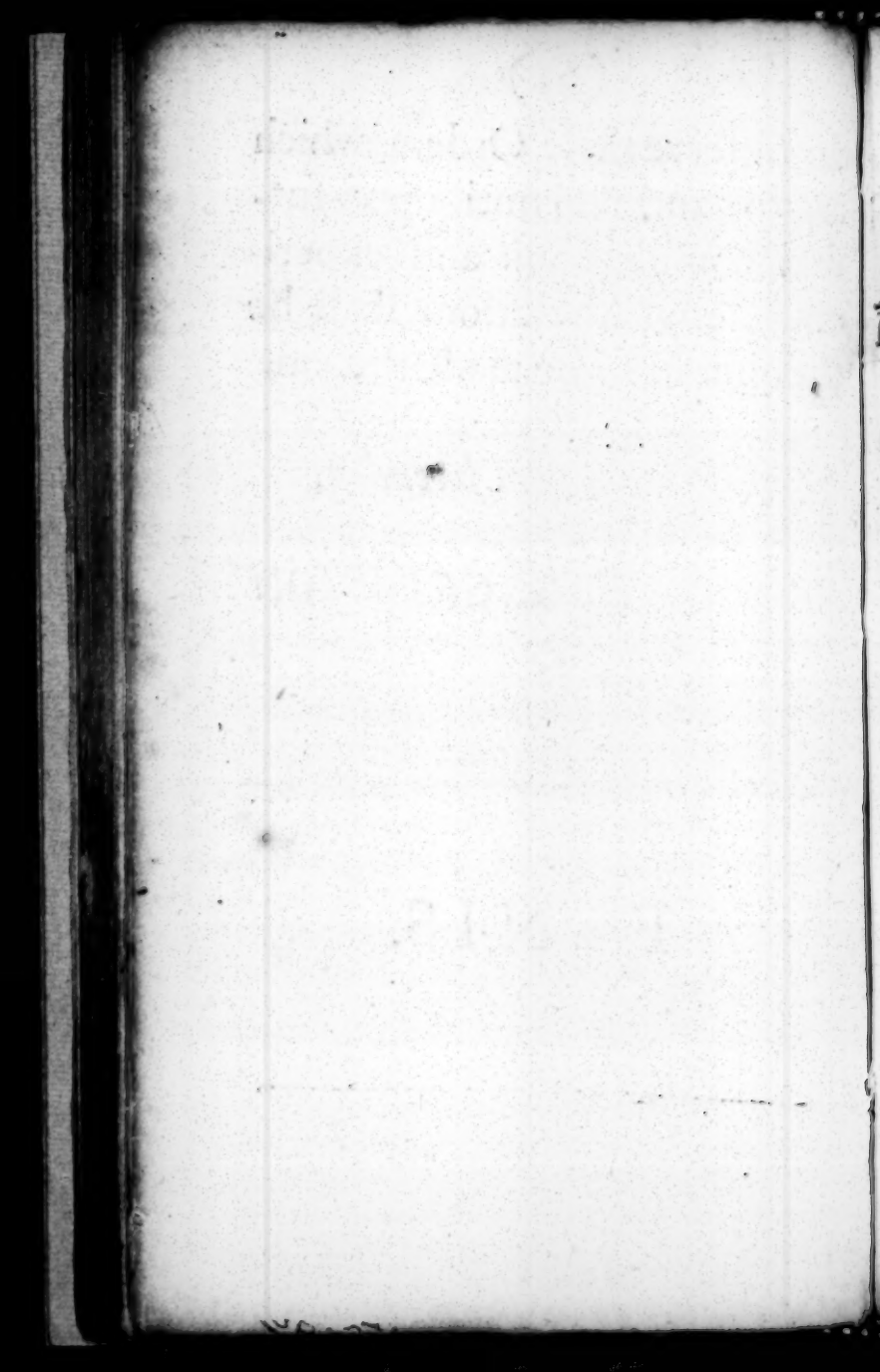
And lastly, it is Ordered, that all Masters of the Court of Chancery, Councillors, and all Officers, Ministers, Clerks, and Solicitors in the said Court,
do

the do observe these Orders, which
apt are to continue, until upon fur-
to ther consideration and experi-
a- ence, any Alterations shall be
n- thought fit to be made therein.
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Clarendon.

HAR. GRIMSTON.

FINIS.



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